

Congress of the United States

Washington, DC 20510

September 8, 2022

The Honorable Merrick Garland
Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, D.C. 20530

Dear Attorney General Garland:

We write today to commend the Department of Justice's (DOJ) recent issuance of guidance on web accessibility under the Americans with Disabilities Act (ADA) and urge the Department to take additional, related administrative and regulatory actions to further promote equity for people with disabilities.

As you know, DOJ has long recognized that “access to information and electronic technologies is increasingly becoming the gateway civil rights issue for people with disabilities.”¹ Businesses, other employers and federal, state and local governments are increasingly dependent on information and communication technology (ICT) to provide goods and services, and individuals rely on these technologies for countless aspects of daily life. For people with disabilities, therefore, the accessibility of websites and other forms of ICT is not simply a luxury or convenience, but a necessity. Accessibility of these technologies is vital to fostering independence, economic self-sufficiency and active, meaningful participation in civic life for every individual in our society.

Despite DOJ's clear statements that the ADA applies to such digital spaces, the lack of specific requirements or technical compliance standards incorporated in regulation has led to a widespread lack of meaningful digital accessibility for people with disabilities. In 2010, DOJ issued an Advanced Notice of Proposed Rulemaking (ANPRM) that explicitly recognized the need for greater clarity in the ADA regulations. However, a proposed rule was never issued despite rigorous engagement from the disability community and in 2017, the ANPRM was withdrawn by the Trump Administration.²

We believe it is long past time for DOJ to issue robust clarifications and remedy this exclusionary status quo. We agree with the sentiments our Senate colleagues expressed in their June 10, 2022 letter that DOJ's March 18, 2022 *Guidance on Web Accessibility and the*

¹ House Judiciary Committee, Subcommittee on the Constitution, Civil Rights and Civil Liberties, Testimony of Sam Bagenstos, Principal Deputy Assistant Attorney General for Civil Rights, U.S. Department of Justice, *Hearing on Achieving the Promises of the Americans with Disabilities Act in the Digital Age: Current Issues, Challenges and Opportunities* (Apr. 22, 2010).

² U.S. Department of Justice, 28 CFR Parts 25 and 36, *Nondiscrimination on the Basis of Disability; Notice of Withdrawal of Four Previously Announced Rulemaking Actions* (online at https://www.ada.gov/anprm2010/equipment_anprm_2010.htm).

Americans with Disabilities Act is a welcome initial step in the agency's efforts to address longstanding access challenges faced by people with disabilities.³ We further espouse their belief that in order to more fully ensure websites, mobile applications, online systems and other forms of ICT are accessible to and usable by the widest possible range of people with disabilities, DOJ should take the following regulatory and subregulatory actions under Titles II and III of the ADA:


1. Promulgate updated regulations implementing Titles II and III of the ADA that include clear and enforceable accessibility and usability standards that align with current requirements under Section 508 of the Rehabilitation Act, including the incorporation by reference of internationally accepted *Web Content Accessibility Guidelines (WCAG) 2.1 Levels A and AA*;
2. Ensure uniform and consistent implementation of the ADA across the country by clarifying that the regulations implementing Title III of the ADA apply to websites, online systems, mobile applications and other forms of ICT, regardless of whether a covered entity also owns or operates a physical location offering the same or similar goods, services or information;
3. Update existing subregulatory guidance regarding accessibility of websites, online systems, mobile applications and other forms of ICT, such as the technical assistance guidelines on *Accessibility of State and Local Government Websites to People with Disabilities*, which were last updated in 2003; and
4. Pursue additional focused settlement agreements regarding website accessibility as well as the accessibility of online systems, mobile applications and other ICT through Project Civic Access in order to advance accessibility under the specific settlement parties as well as provide clear policy guidance for all covered entities.

As new and emerging technologies continue to enter the marketplace and quickly begin to be incorporated into our daily lives, additional regulatory and administrative action by DOJ is critical to creating a truly equitable society. In order to truly align with the mission of President Biden's Executive Order 13895, *Advancing Racial Equity and Support for Underserved Communities Through the Federal Government* and Executive Order 14035, *Diversity, Equity, Inclusion and Accessibility in the Federal Workforce*, DOJ should expediently take the aforementioned actions to demonstrate its continued commitment to the goals of the ADA and the advancement of equity for people with disabilities.

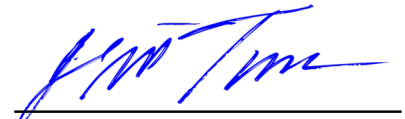
We urge DOJ to take these much-needed steps towards our shared goal of achieving equity and inclusion for all individuals and we appreciate your attention to this important matter.

Sincerely,


³ Letter from Sen. Tammy Duckworth, et. al to Merrick Garland, Attorney General, U.S. Department of Justice (June 10, 2022) (online at <https://www.judiciary.senate.gov/imo/media/doc/22.06.10%20-%20LETTER%20-%20Duckworth-Durbin%20letter%20to%20DOJ%20on%20web%20accessibility%20-%20FINAL.pdf>); See, *Guidance on Web Accessibility and the ADA*, Civil Rights Division, U.S. Department of Justice (Mar. 18, 2022) (online at <https://beta.ada.gov/resources/web-guidance/>).



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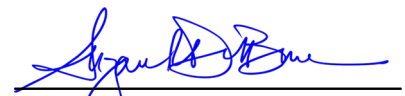
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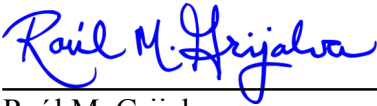
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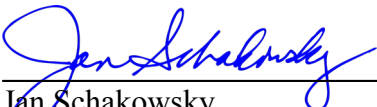
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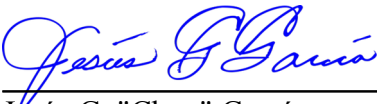
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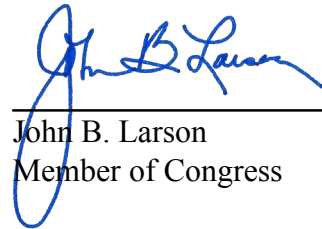
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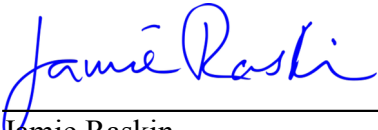
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